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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

**[FWS-HQ-MB-2020-N001; FF07CAFB00-201-FXFR13350700001; OMB**

**Control Number 1018-0146]**

### **Agency Information Collection Activities; Depredation and Control Orders**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO/1N), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov). Please reference OMB Control Number 1018-0146 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov), or by telephone at (703) 358-2503.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine the number of take of birds of each species each year and whether the control actions are likely to affect the populations of those species.

**Annual Report (FWS Form 3–2436)** - Regulations at 50 CFR 21 establish depredation orders and impose reporting and recordkeeping requirements. All persons or entities acting under depredation orders must provide an annual report. The capture and disposition of all non-target migratory birds, including Endangered, Threatened, or Candidate species must be reported on the Annual Report. In addition to the name, address, phone number, and email address of each person or entity operating under the Order, we collect the following information for each target and non-target species taken:

- Species taken,
- Number of birds taken,
- Months and years in which the birds were taken,

- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of non-target species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to non-target migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and,
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

§21.43 – Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;

§21.44 – Depredation order for horned larks, house finches, and white-crowned sparrows in California;

§21.46 – Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon;

§21.49 – Control order for resident Canada geese at airports and military airfields;

§21.50 – Depredation order for resident Canada geese nests and eggs;

§21.51 – Depredation order for resident Canada geese at agricultural facilities;

§21.52 – Public health control order for resident Canada geese;

§21.53 – Control order for purple swamphens;

§21.54 – Control Order for Muscovy ducks in the United States;

§21.55 – Control order for invasive migratory birds in Hawaii;

§21.60 – Conservation Order for light geese; and

§21.61 – Population control of resident Canada geese.

**Recordkeeping Requirements (50 CFR 13.48)** - Persons and entities operating under these orders must keep accurate records to complete Forms 3–436. The records must be legibly written or reproducible in English of any taking and maintained for five years after they have ceased the activity authorized by this Order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

**Endangered, Threatened, and Candidate Species Take Report (50 CFR 21)** - If attempts to trap any species under a depredation order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is a candidate for listing, the bird must be delivered to a rehabilitator and must be reported by phone or email to the nearest U.S. Fish and Wildlife Service

Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

## **PROPOSED REVISION**

Previously, all persons or entities acting under depredation orders provided information on the annual report via FWS Form 3–202–21–2143, “Annual Report – Depredation Order for Blackbirds, Cowbirds, Grackles, Magpies, and Crows” or FWS Form 3–2500, “Depredation Order for Depredating Jays in Washington and Oregon.” In February 2019, the Service received OMB approval to pretest FWS Form 3–2436 under the Department of the Interior “Fast Track” generic clearance process (OMB Control Number 1090-0011). With this submission, in an effort to streamline submissions and reduce public burden, the Service is proposing to discontinue FWS Forms 3–202–21–2143 and 3–2500 and use FWS Form 3–2436, “Depredation and Control Orders – Annual Reporting” as the sole annual reporting form. Additionally, to more accurately reflect the purpose of this collection, the Service is proposing to change the title of the collection from “Depredation Orders Under 50 CFR 21.43 and 21.46” to “Depredation and Control Orders Under 50 CFR 21.”

As part of this revision, we will also request OMB approval to automate FWS Form 3-2436 in the Service's new “ePermits” initiative, an automated system that will allow the agency to move towards a streamlined permitting and reporting process to improve customer experience and to reduce public burden. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior.

This new system will enhance the user experience by allowing users to enter data from any device that has Internet access, including personal computers (PCs), tablets, and smartphones.

*Title of Collection:* Depredation and Control Orders Under 50 CFR 21.

*OMB Control Number:* 1018–0146.

*Form Number:* FWS Form 3–2436.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* State and Federal wildlife damage management personnel, farmers, and individuals.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion for take reports and annually for annual reports.

*Total Estimated Annual Nonhour Burden Cost:* None.

Respondent	Activity	Annual No. of Respondents	Number of Submissions Each	Total Annual Responses	Avg. Time per Response (hours)	Total Annual Burden Hours
<b>Depredation Order Annual Report (FWS Form 3–2436)</b>						
Individuals	Reporting	15	1	15	2	30
	Recordkeeping				2	30
Private Sector	Reporting	15	1	15	2	30
	Recordkeeping				2	30
Government	Reporting	21	1	21	2	42
	Recordkeeping				2	42
<b>Subtotals:</b>		<b>51</b>		<b>51</b>		<b>204</b>
<b>Endangered, Threatened, and Candidate Species Take Report 50 CFR 21.43</b>						
Individuals	Reporting	1	1	1	1	1
Private Sector	Reporting	1	1	1	1	1
Government	Reporting	3	1	3	1	3
<b>Subtotals:</b>		<b>5</b>		<b>5</b>		<b>5</b>
<b>Totals:</b>		<b>56</b>		<b>56</b>		<b>209</b>

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: February 6, 2020

Signed:

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Madonna L. Baucum,  
*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*  
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